

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KEVIN EPPERSON,	§
	§ No. 97, 2012
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 9408009291
	§
Plaintiff Below-	§
Appellee.	§

Submitted: March 13, 2012

Decided: March 19, 2012

Before **HOLLAND, BERGER** and **JACOBS**, Justices

ORDER

This 19th day of March 2012, it appears to the Court that:

(1) The defendant-appellant, Kevin Epperson, filed an appeal from the Superior Court's December 1, 2011 order denying his seventeenth motion for postconviction relief pursuant to Superior Court Criminal Rule 61. In March 1996, Epperson was found guilty by a Superior Court jury of Kidnapping in the First Degree and Unlawful Sexual Contact in the First Degree. He was sentenced as a habitual offender to fifty-two years of Level

V incarceration followed by eight years of probation. Epperson's convictions were affirmed by this Court on direct appeal.¹

(2) On June 5, 2006, following the filing of numerous unsuccessful appeals and petitions relating to his convictions and sentences, this Court issued an Order enjoining Epperson from filing any further appeals and petitions unless first reviewed and approved for filing by a Justice of this Court.² The Clerk inadvertently docketed the instant appeal on March 5, 2012, without first submitting it for review and approval by a Justice of the Court, as contemplated by the Court's June 5, 2006 Order.

(3) On March 6, 2012, the Clerk issued a notice to Epperson to show cause why the appeal should not be dismissed as untimely. On March 13, 2012, Epperson responded to the notice to show cause. In his response, he argues that his appeal should not be considered untimely because his original attempt to file the appeal, which was done in a timely manner, was thwarted by the Clerk, who informed him that his appeal could not be filed pursuant to the Court's June 5, 2006 Order.

(4) Having conducted a preliminary review of Epperson's appeal from the Superior Court's denial of his seventeenth postconviction motion,

¹ *Epperson v. State*, Del. Supr., No. 214, 1996, Walsh, J. (Feb. 6, 1997).

² *Epperson v. State*, Del. Supr., No. 123, 2006, Holland, J. (June 5, 2006); Del. Code Ann. tit. 10, §8803(e).

the Court has determined that the appeal falls within our previous June 5, 2006 Order.³ Moreover, we conclude, *nunc pro tunc*, that Epperson's appeal from the Superior Court's December 1, 2011 order is not approved for filing.

NOW, THEREFORE, IT IS ORDERED that Epperson's appeal papers are STRICKEN and this matter is DISMISSED.⁴

BY THE COURT:

/s/ Carolyn Berger
Justice

³ We note that, in spite of this Court's June 5, 2006 Order, this Court's docket reflects that Epperson has still managed to file several subsequent appeals in connection with his convictions as well as petitions for extraordinary writs, all of which have been unsuccessful.

⁴ Supr. Ct. R. 29(c).